

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 JAMES KARIM MUHAMMAD,

No. C 12-02407 CRB

12 Plaintiff,

**ORDER DENYING APPLICATION
TO PROCEED IN FORMA PAUPERIS
ON APPEAL**

13 v.

14 KEVIN J. BERRETH, et al.,

15 Defendants.
16 _____ /

17 The Ninth Circuit has referred this case to this Court “for the limited purpose of
18 determining whether in forma pauperis status should continue for this appeal or whether the
19 appeal is frivolous or taken in bad faith. See 28 U.S.C. § 1915(a)(3); see also Hooker v.
20 American Airlines, 302 F.3d 1091, 1092 (9th Cir. 2002).” The Court dismissed this case on
21 February 25, 2013, holding that Plaintiff’s amended complaint failed to state a claim upon
22 which relief can be granted. See generally Order (dkt. 79). The amended complaint stems
23 from a state court case in which Plaintiff received a default judgment that was subsequently
24 revoked. Id. at 1. The Court dismissed Plaintiff’s claims, explaining that: (1) the Eleventh
25 Amendment barred Plaintiff’s claims against the Superior Court, and such claims asked this
26 Court to impermissibly review a state court judgment; (2) non-lawyers are not a protected
27 class under § 1985; and (3) Plaintiff could not state a claim against the individual defendants
28 under § 1983 because they are not state actors, and Plaintiff failed to sufficiently allege a

1 conspiracy with the Superior Court. Id. at 5. In the Court's view, none of these holdings are
2 reasonably subject to dispute. Accordingly, the Court finds that the appeal is frivolous. In
3 forma pauperis should be revoked. See 28 U.S.C. § 1915(a)(3).

4 **IT IS SO ORDERED.**

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6 Dated: April 10, 2013



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8 CHARLES R. BREYER
9 UNITED STATES DISTRICT JUDGE
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